



February 16, 2021

Board of Governors of the Federal Reserve System

Via email: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

**RE: *Community Reinvestment Act***  
**Docket Number R-1723 and RIN Number 7100-AF94**

To Whom It May Concern,

The City of New York (the City) welcomes the opportunity to provide comments to the Federal Reserve Board (the Board) on the above-referenced advance notice of proposed rulemaking (ANPR) to amend the Community Reinvestment Act (CRA) regulations.

In 1977, Congress passed the CRA to end discrimination known as redlining and spur community revitalization in disinvested communities. The CRA requires banks to serve the credit needs of communities where they take deposits, including low- to moderate-income (LMI) communities. Over the past forty years, the CRA has proven to be an invaluable tool, leveraging trillions of dollars in loans, investments, and services for LMI communities nationwide and billions annually in the City. Any CRA reform proposal must aim to strengthen, not weaken, this critical community investment tool.

The City appreciates and is encouraged by the Board's conscientious and thorough quantitative and qualitative approach to CRA reform compared to the Office of the Comptroller of the Currency's (OCC) rushed, simplistic and harmful CRA reform proposal. However, it is important to have consistency across all three CRA regulators. We ask the Board to urge the OCC and Federal Deposit Insurance Corporation (FDIC) to join them as the Board moves forward with its thoughtful and data-driven reform proposal. The City also requests the Board to consider the following responses and recommendations to the ANPR's questions:

*Question 6. Would delineating facility-based assessment areas that surround LPOs support the policy objective of assessing CRA performance where banks conduct their banking business?*

Yes. The Board should delineate facility-based assessment areas surrounding loan production offices (LPOs) because doing so would support the objective of assessing CRA performance where banks conduct their banking business. This would encourage LPOs to engage in retail lending and community development activities in their local communities.



*Question 7. Should banks have the option of delineating assessment areas around deposit-taking ATMs or should this remain a requirement?*

In the City, banks have closed nearly 100 branches in 2020. Delineating assessment areas around deposit-taking ATMs should remain as a requirement. As bank branches close, these ATMs become more significant to various communities and small businesses.

*Question 9. Should nationwide assessment areas apply only to internet banks? If so, should internet banks be defined as banks deriving no more than 20 percent of their deposits from branch-based assessment areas or by using some other threshold? Should wholesale and limited purpose banks, and industrial loan companies, also have the option to be evaluated under a nationwide assessment area approach?*

No banks, even internet banks, uniformly conduct business everywhere across this country; therefore, they should not be assessed by a blanket nationwide assessment area. Internet banks should be assessed based on where the majority of their deposits and/or lending activity is located to ensure they are equitably investing in those specific communities. In addition, on the creation of specific assessment areas based on where they do business, banks should also be required to maintain their obligation to their local assessment area where they are chartered.

One of the Board's goals as presented in the ANPR is to encourage banks to go beyond their assessment areas and into markets with the greatest investment need, but this nationwide assessment area approach for some banks would not result in the outcome the Board seeks. Instead that approach could motivate banks to selectively pick their investments where they have the least risk or will get the best price and would not necessarily increase investment in LMI communities or the communities most in need. In order to encourage investments in communities with the greatest need, the Board must incentivize this targeting explicitly, as it does with its proposal for designated areas of need.

*Question 14. Is the retail lending screen an appropriate metric for assessing the level of a bank's lending?*

Yes. A screen made up of the ratio of lending to deposits in order to measure whether a bank's lending activity is sufficient is appropriate. Currently, the exam simply looks at lending amounts and number of loans. This provides no critical analysis of whether lending levels are fulfilling



need and whether deposits are sitting idle. The ratio of lending to deposits needs to be set high enough to ensure banks are lending in an impactful way.

*Question 16. Should the presumption of “satisfactory” approach combine low- and moderate-income categories when calculating the retail lending distribution metrics in order to reduce overall complexity, or should they be reviewed separately to emphasize performance within each category?*

No. The presumption of “satisfactory” should not combine low- and moderate-income categories in order to simplify the exam. Grade inflation already undermines the purpose of CRA and collapsing categories will only worsen this. These demographics should be disaggregated in order to promote a more rigorous and precise exam that measures the diverse needs in different communities.

*Question 25. How should banking deserts be defined, and should the definition be different in urban and rural areas?*

A single definition of ‘banking desert’ would not fairly encompass the differences between urban and rural areas. Any definition of banking deserts should be quite rigorous, based on thorough research and regional characteristics. A definition should not inflate CRA ratings by giving banks credit for operating in areas that are not actually banking deserts. For instance, distance is measured significantly differently in urban areas where most residents do not have automobiles than in suburban or rural areas; the definition(s) of ‘banking deserts’ must reflect this type of discrepancy.

*Question 42. Should the Board combine community development loans and investments under one subtest? Would the proposed approach provide incentives for stronger and more effective community development financing?*

No. The Board should not combine community development loans and investments under one subtest because that approach would provide insufficient incentives for more effective community development financing.

Affordable housing development vitally depends on access to both community development loans and investments, especially construction lending and letters of credit and Low Income Housing Tax Credit (LIHTC) investments. Maintaining separate subtests will encourage both



community development loans and investments, while combining them under one test will make these two essential community development finance activities have to compete against each other. Depending on the market or the bank, a combined test could dilute one or the other by allowing banks to pick and choose which activity is more profitable or less time consuming for them while maintaining a satisfactory score. The Board should abandon this proposal to avoid a potential reduction in access to community development loans or community development investments.

*Question 45. Should the Board use local and national benchmarks in evaluating large bank community development financing performance to account for differences in community development needs and opportunities across assessment areas and over time?*

Yes. The Board should use local and national benchmarks because it is critical to contextualize need and demand and recognize the development programs and needs of different communities.

*Question 47. Should the Board use impact scores for qualitative considerations in the Community Development Financing Subtest? What supplementary metrics would help examiners evaluate the impact and responsiveness of community development financing activities?*

The proposed three-point impact score scale would not provide enough nuance to uplift and encourage truly impactful activities. A weighting system for certain activities that incorporates racial equity and LMI multipliers could be a better way of assessing community impact than the proposed impact score system. In order to provide more clarity and certainty for banks, regardless of which metric the Board chooses, the Board should identify which activities would be automatically designated to receive the highest impact score or most weight, such as LIHTC investments and affordable housing construction lending and letters of credit.

When choosing any new quantitative or qualitative metric, the Board must actively ensure that there will not be any reduction in the effectiveness of proven programs, such as LIHTC. The LIHTC program is our nation's most successful tool for encouraging private investment in affordable rental housing. Since 1986, it has financed 3.3 million homes nationwide, which has provided roughly 8 million low-income households with homes they can afford. The program provides tax credits to owners and developers to acquire, rehabilitate, or construct new rental housing for lower-income families. Approximately 85 percent of annual Housing Credit equity



investment is CRA-driven, and without these investors, the public-private partnership model would not work and the City's ability to provide affordable housing would be diminished. Thus, any chosen community development related metric must continue to incentivize investment in this impactful program.

*Question 52. Should the Board include for CRA consideration subsidized affordable housing, unsubsidized affordable housing, and housing with explicit pledges or other mechanisms to retain affordability in the definition of affordable housing? How should unsubsidized affordable housing be defined?*

Rather than providing CRA consideration based on subsidy categorization, the Board should focus on regulatory agreement status. If the Board used regulatory agreements to categorize the types of affordable housing, it would provide CRA consideration to naturally occurring-affordable housing while avoiding giving CRA consideration to activities that could lead to displacement because the regulatory agreements provide long-term affordability guardrails. The Board should consider activities tied to projects with regulatory agreements that ensure compliance and continued affordability as particularly responsive to addressing affordable housing needs.

*Question 54. Should the Board specify certain activities that could be viewed as particularly responsive to affordable housing needs? If so, which activities?*

Rather than producing a static list of types of activities, the Board should deem all affordable housing activities connected to state and local government resources as particularly responsive to affordable housing needs. This flexible approach will allow CRA credit to better match in real time the types of activities that states and localities find to be the most responsive in meeting the needs of their local LMI communities.

For example, LIHTCs are a limited resource allocated competitively based on state-specific affordable housing needs, meaning only the proposals deemed to be most impactful and aligned with state-set goals are awarded Housing Credits or the allocation of private activity bonds. Similarly, related construction lending activities, including the provision of letters of credit as construction enhancement, are important components of such public-private partnerships and essential to the development of affordable housing. A flexible approach for measuring responsiveness would properly assess such activities as highly responsive to local needs.



The Board also should not discount the CRA value of bank purchases of mortgage-backed securities (MBS). This is a valuable activity to ensure liquidity for lenders. The Board should consider the purchases of both MBS and qualified municipal bonds as highly safe, necessary, and effective activities that are particularly responsive to affordable housing needs. Also, the Board must consider that in many instances, purchases of MBS and qualified municipal bonds are the only options available for banks to fulfill their CRA obligation and remain engaged in their local communities in a positive way.

State and local housing finance agencies issue municipal bonds that finance single-family and multifamily mortgages to fund lower-cost mortgages for LMI borrowers. CRA-qualified municipal bonds help individual borrowers purchase their first homes and multifamily developers finance and create affordable housing. In particular, the Mortgage Revenue Bond (MRB) and tax-exempt multifamily housing bond programs (collectively, Housing Bonds) finance low-interest mortgages for LMI home buyers and finance the acquisition, construction, and rehabilitation of multifamily housing for low-income renters. If the Board does not rate these activities as particularly responsive, we could see lower demand for these bonds, which would weaken these programs by reducing the availability or increasing the funding costs of these lending programs.

*Question 55. Should the Board change how it currently provides pro rata consideration for unsubsidized and subsidized affordable housing? Should standards be different for subsidized versus unsubsidized affordable housing?*

The Board should continue its current pro rata consideration for mixed income housing. We recommend the Board categorize based on regulatory agreement status instead of subsidy status when applying its CRA consideration standard. Regulated affordable housing should receive higher CRA consideration than unregulated affordable housing as it incentivizes activities that would provide long-term affordability for tenants and disincentivizes lending activities that could lead to tenant displacement. Furthermore, regulated housing is reviewed by housing agencies for compliance with affordability requirements and quality standards.



*Question 60. Should the Board codify the types of activities that will be considered to help attract and retain existing and new residents and businesses? How should the Board ensure that these activities benefit LMI individuals and communities, as well as other underserved communities?*

The Board should provide an illustrative list, not a definitive or static list, as neighborhood stabilization and revitalization activities will vary depending on local context. However, regardless of the approach the Board chooses to identify qualifying activities, affordable housing development should be considered a key activity that helps attract and retain existing and new residents. The responsiveness level of an activity should be based on how effective it is at serving the needs of the LMI community members.

*Question 61. What standards should the Board consider to define “essential community needs” and “essential community infrastructure,” and should these standards be the same across all targeted geographies?*

We believe affordable housing should be considered as an ‘essentially community need or infrastructure’, but the Board also should consider using additional neighborhood-based indicators such as access to employment opportunities, violent crime, park access, and measures of climate change risk in order to better inform CRA investment decisions.

*Question 69. Should the Board expand the geographic areas for community development activities to include designated areas of need? Should activities within designated areas of need that are also in a bank's assessment area(s) or eligible states and territories be considered particularly responsive?*

Yes. The Board should expand the geographic areas of community development activities to include designated areas of need, and activities within designated areas of need that are also in a bank's assessment area(s) or eligible states should be considered particularly responsive. However, it is important that areas of need designations remain in place long enough to plan multiyear projects, such as affordable housing and other large infrastructure projects. We strongly recommend the Board grandfather the areas of need designations for multiyear projects receiving LIHTCs and related construction lending, but also allow multiyear projects to take advantage of new designated areas as they become available.



*Question 81. Should large bank ratings be simplified by eliminating the distinction between “high” and “low” satisfactory ratings in favor of a single “satisfactory” rating for all banks?*

No. The Board should not eliminate the distinction between “high” and “low” satisfactory ratings, which would leave only 4 ratings. Because most banks (based on previous performance) would likely receive a satisfactory, that rating would encompass too wide of a range in performance and be a less meaningful score than a high and low satisfactory rating.

We appreciate the opportunity to provide comments.